

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MICHAEL W. RICKARD, II,

Plaintiff,

v.

AMENDED ORDER
08-CV-674A

WESTERN NEW YORK INDEPENDENT
LIVING PROJECT, INC.,

Defendant.

The above-referenced case was referred to Magistrate Judge H. Kenneth Schroeder, Jr., pursuant to 28 U.S.C. § 636(b)(1)(B). On April 30, 2009, Magistrate Judge Schroeder filed a Report and Recommendation, recommending that defendant's motion to dismiss the complaint be granted.

The Court has carefully reviewed the Report and Recommendation, the record in this case, and the pleadings and materials submitted by the parties, and no objections having been timely filed, it is hereby

ORDERED, that pursuant to 28 U.S.C. § 636(b)(1), and for the reasons set forth in Magistrate Judge Schroeder's Report and Recommendation, defendant's motion to dismiss (1) plaintiff's allegations concerning violations of Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act contained in plaintiff's first cause of action; (2) plaintiff's third cause of action for intentional infliction of emotional distress; and (3) plaintiff's fourth cause of action for breach of an implied employment contract is granted.

The Clerk of Court is directed to vacate judgment entered on May 26, 2009, and the matter is referred back to Magistrate Judge Schroeder for further proceedings.

SO ORDERED.

s/ Richard J. Arcara

HONORABLE RICHARD J. ARCARA
CHIEF JUDGE
UNITED STATES DISTRICT COURT

DATED: May 29 , 2009